

State of California  
**Fair Political Practices Commission**



# Bulletin

Vol. 26, No. 3

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## **Chairman's Message**

### **Public Education Unit Approved; McPherson Report Released**


My previous Chairman's Message ended with the sorrowful announcement that our request for funding to start a Public Education Unit had been denied. It gives me great pleasure to tell you that my earlier message was wrong — despite the initial negative comments, the Legislature and Governor saw fit to fully fund our Public Education Unit in the 2000-01 fiscal year!

The Unit will have two primary areas of focus: to serve as the first statewide clearinghouse for information on the hundreds of conflict of interest codes and campaign finance ordinances that affect local officials; and to expand and improve our ability to educate public officials on their obligations under the Political Reform Act (*see story, p.4*). Although we are in the early stages of setting up the Unit, we already can announce three improvements:

- In early August, we will make available the text of the Political Reform Act on cd-rom;
- Also in August, we will institute a toll-free number to connect with our Technical Assistance help-line;
- Soon afterward, we will unveil an improved and reorganized web site that will serve as the focal point of our new educational efforts.

Two events that took place in July could put our increased educational efforts to the test. The first was the completion of the re-trial on Proposition 208, the campaign finance ordinance passed by the voters in November 1996 and currently subject to a federal court injunction. The second was the passage by the Legislature of its own campaign finance proposal, which will appear on the November 2000 ballot. We are keeping close tabs on the fate of both initiatives.

One final note: the McPherson Commission has issued its final report after a year-long study of the impact of the Political Reform Act on political participation. The report, available now on our web site, will be formally presented to the FPPC at our September commission meeting. At that meeting we will hold a public hearing on the report's findings and recommendations. If you cannot attend the September meeting but would like us to consider your views on the report, please mail or fax your comments to me prior to September 6.

  
Karen Getman, Chairman

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## **Future Commission Meeting Dates**

The Commission meeting dates for the rest of this year will be:

**August 11  
September 8  
October 6  
November 3  
December 8**

Generally, Commission meetings begin at 9:30 a.m.

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### **Contents**

- 
- 3 Final Prop. 208 Arguments Set**
  - 4 Funding for Public Education Unit**
  - 5 Bipartisan Commission Issues its Report**
  - 5 Kathy Gnewkow Returns to AG's Office**
  - 6 Staff Notes**
  - 7 May Commission Meeting Summaries**
  - 9 June Commission Meeting Summaries**
  - 11 July Commission Meeting Summaries**
  - 12 Legislative Update**
  - 15 Clerk's Corner**
  - 18 Advice Summaries**
  - 28 Political Reform Act Available on CD**



### **California Fair Political Practices Commission**

Karen A. Getman, Chairman  
William Deaver, Commissioner  
Kathleen Makel, Commissioner  
Carol Scott, Commissioner  
Gordana Swanson, Commissioner

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#### **Commission Meetings**

Meetings are regularly scheduled for the first Friday of each month at 9:30 a.m. in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000. Additionally, past and future agendas are posted on the website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## Dukakis, Ammiano Testify for FPPC in Proposition 208 Trial; Final Arguments Set for November

The second trial in U.S. District Court on challenges to Proposition 208, the campaign finance reform measure passed by voters in 1996 — and tied up in court ever since — began Tuesday, July 11 before Judge Lawrence K. Karlton. The judge will wait to hear final arguments of the case until after the November 7 election, when California voters are slated to decide on another campaign finance reform initiative, Proposition 34.

Among witnesses presented by Fair Political Practices Commission attorneys for the defense of the initiative were former Massachusetts Gov. Michael Dukakis, the Democratic nominee for President in 1988, and San Francisco Board of Supervisors President Tom Ammiano, who ran this year for mayor of San Francisco.

Dukakis, who effectively campaigned under contribution limits, believes donation limits are necessary. He testified that the contribution limits Massachusetts has long had in place do not hinder the election process.

While plaintiffs' witnesses, the opponents of Proposition 208, testified that the measure's contribution limits are too low and would prevent candidates from effectively communicating with voters — impeding candidates' ability to send mail, buy broadcast time on television and pay for professional services — Dukakis countered by saying that grass-roots campaigning is a more effective and inexpensive way to communicate with voters.

"I've always been a great believer in grass-roots politics," he testified. "Too many politicians have walked away from that...I spent a great deal of time raising money in living rooms and backyards. I believe strongly in that."

Ammiano ran a write-in campaign for mayor of San Francisco this year — testifying that he spent \$30,000 to beat several well-known (and better-funded) candidates, including political consultant Clint Reilly, who spent about \$4

million. Ammiano lost to incumbent Mayor Willie Brown in the run-off, but said his campaign was a tribute to the effectiveness of low-budget, grass-roots campaigns.

"Voters become anesthetized" in high-spending races, Ammiano testified, and are "alienated" by the political process. "People felt like they were a part of something," he said of his mayoral campaign. "They felt empowered."

Other FPPC defense witnesses were political scientist Jonathan Krasno; Yale University political science professor Don Green; Virginia Vida, executive director of the San Francisco Ethics Commission; Rebecca Avila, executive director of the Los Angeles Ethics Commission, and veteran San Francisco campaign treasurer Esther Marks.



Former Massachusetts Gov. Michael Dukakis talks to reporters covering Prop. 208 trial.

*Continued on page 4.*

Plaintiff's first witness was Garry South, Gov. Gray Davis' campaign manager and top political adviser. South addressed the issue of the "self-funded candidate." If Proposition 208's fund-raising limits had not been enjoined, South testified, Davis would never have been able to compete against his wealthy opponents in the 1998 Democratic primary.

Other witnesses for the plaintiffs included prominent political consultants, political scientists and representatives of both major parties.

Proposition 208 included contribution limits, voluntary expenditure limits and strengthened disclosure provisions. It was challenged in court shortly after its passage in 1996. After a three-week trial before Judge Karlton in 1997, the judge issued a preliminary injunction, finding that Prop. 208's contribution and expenditure limits violated the U.S. Constitution.

The FPPC appealed that decision to the 9th U.S. Circuit Court of Appeals, which in January 1999 issued an order affirming the preliminary injunction and sending the matter back to Judge Karlton for further proceedings and a final judgment.

Senior Commission Counsel Lawrence Woodlock and Staff Counsel Deborah Allison are handling the case for the FPPC.

The five major plaintiffs in the case are the California Democratic Party, the California Republican Party, the California Pro-Life Council PAC, a slate mailer organization and a group of public employee unions. Intervenors in the case, who joined the FPPC in defending the initiative, are Tony Miller and Ruth Holton. ☞

## FPPC Receives Funding for Public Education Unit

The Fair Political Practices Commission received \$460,000 in the new state budget to establish a Public Education Unit. The Unit will provide clear, understandable and accessible information on the Act's complex disclosure and reporting laws governing state and local public officials under the Political Reform Act of 1974. (*See Chairman's Message, cover page.*)

"We are absolutely delighted to receive this funding," said Commission Chairman Karen Getman, who first proposed the Unit more than a year ago. "The Public Education Unit is extraordinarily important in accomplishing the original mission of the Political Reform Act, which includes widespread public education about campaign reporting and conflict of interest laws as well as aggressive enforcement of those laws."

"In order to encourage better compliance with the law, the Unit will offer centralized public access to the virtual maze of laws and regulations affecting candidates and public officials at the state and local levels," she added. "It will give us the opportunity to create informational brochures and internet training materials explaining the Act in language the average person, or first-time candidate, can understand."

She said the "first order of business" will be to install a toll-free 800 number to reach the FPPC's Technical Assistance Division, where staff knowledgeable about the Political Reform Act's requirements can answer questions about completing required disclosure forms, conflict of interest questions and other common dilemmas facing public officials and candidates. ☞

## **Bipartisan Commission on Political Reform Act Issues Report**

The Bipartisan Commission on the Political Reform Act released its findings on campaign finance, lobbying, financial disclosure, conflicts of interest, and enforcement of the Political Reform Act.

In its 77-page report issued to the Governor and the state Legislature, it made several recommendations to simplify the Political Reform Act. Some recommendations include:

- Raising reporting thresholds for campaign committee qualification and disclosure of receipts and expenditures of campaign funds, as well as the thresholds for conflicts of interest.
- Eliminate unnecessary and redundant campaign filings and unnecessary reporting of irrelevant gifts.
- Create a simpler and more understandable election filing schedule and place the burden on the government to notify campaign committees of their filing responsibilities.
- Require the return of contributions if the donor fails to provide employer and occupation information.
- Consolidate the various conflict of interest rules into a single code and under a single agency, the FPPC.
- Eliminate unnecessary decision-making disqualification, especially in the case of landowner public officials and small investors; and allow public officials to vote against their own interests.
- Expand the range of monetary penalties from \$50 to \$5,000 depending on the seriousness of the violation. ☞

## **Gnekow Returns to Attorney General's Office**

Kathleen Gnekow, who was named General Counsel by the FPPC last February, has decided to return to the Attorney General's office, where she will handle litigation for the Indian Gaming Law Section of the Public Rights Division.

Prior to joining the FPPC, she was with the Attorney General's office for nearly two decades, handling complex litigation and several high-profile cases.

Commission Chairman Karen Getman said the commissioners are "saddened" by the departure of Gnekow, whom she called "a tremendous asset" to the commission. "At the same time, I fully understand her desire to return to the litigation position she loved. We will miss her keen intellect and extensive legal experience. We wish her all the best in her new position." ☞

***Political Reform Act  
Available on CD Rom —  
See Back Page to Order!!***

### **Conflicts Expert John Wallace Rejoins Legal Division Morodomi, Vergelli Depart for D.C., Doherty to Santa Rosa**

After four years as an attorney in the state Board of Equalization's Administration and Sales and Use Tax Sections, **John Wallace** has returned to the FPPC as a senior commission counsel.

"It's a lot like coming back home again" Wallace said, remarking on how familiar he still is with the subject area, and how many familiar faces line the hallways. Wallace worked as staff counsel at the FPPC from 1988 to 1996, when he joined Equalization.

While with the FPPC — his first legal position after graduating from law school — he developed a wide knowledge of the Political Reform Act and was amazed by how much he retained about the complex conflict-of-interest laws. Wallace will bring his expertise in the conflict-of-interest arena to the Commission's Year 2000 Phase 2 project currently under way to simplify the conflicts rules.

Wallace graduated with distinction from McGeorge School of Law in 1988. He received numerous awards at McGeorge, including admission to the prestigious Traynor Society and an American Jurisprudence Award.

**Mark Morodomi**, senior counsel in the Enforcement Division, left the FPPC in mid-July when he accepted a position as policy advisor to the Undersecretary for Enforcement of the U.S. Treasury. Morodomi, who joined the FPPC in 1990, served in the Legal Division

before he joined Enforcement. He handled numerous high-profile cases, including a 1993 money-laundering case which resulted in the highest fine — more than \$800,000 — in the 26-year history of the FPPC. In his position at Treasury, Morodomi will work on national money-laundering policies.

**John Vergelli**, staff counsel in the Legal Division, left the FPPC in late-July to take a position at the Federal Elections Commission as an Enforcement Division attorney. Vergelli has been the principal Legal Division attorney working on the Phase 2 project. He and his wife and three children are looking forward to being closer to family, though perhaps not to the cross-country road trip.

Also moving on to a new position is Legal Division Political Reform Consultant **Lynda Doherty**, who has accepted a post at the North Coast Regional Water Control Board in Santa Rosa. Doherty is looking forward to living in a coastal community. ☞

# May Commission Meeting Summaries

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## **Commission Considers Galligan Opinion**

Burlingame City Councilman Joe Galligan requested an opinion regarding whether he has a conflict of interest under the Political Reform Act. Councilman Galligan has an economic interest in a bank that holds a loan on property that is the subject of a city council vote on a permit approval. If the project is approved, the loan will be repaid early, resulting in a material financial effect due to lost interest income to the bank.

Councilman Galligan argued that due to specific circumstances surrounding this particular project, the loan will be repaid early in any event. The council's decision is not cause of the early repayment. The question presented to the Commission was whether a public official should be disqualified from taking part in a governmental decision where the material financial effect on an official's interest is the same regardless of the decision. After lengthy discussion on the merits of the request, the Commission directed staff to draft an opinion stating that given the unusual factual situation, it is not reasonably foreseeable that a material financial effect will occur because it is substantially likely that the loan to Councilman Galligan's bank would be paid off early regardless of whether he participates in a decision to approve the project. Staff was directed to bring the opinion to the Commission for adoption at the June meeting.

## **Delegation Given to Executive Director to Oversee Outstanding Fines Collection**

In 1998, the Commission directed staff, with oversight from the Executive Director, to work with a professional collection agency in an attempt to collect outstanding fines. Since that

time, a number of collection cases have come before the Commission to seek approval to compromise judgments on collection matters. It is anticipated that the number of compromises is expected to increase. The Commission delegated to the Executive Director the authority to approve the Enforcement Division's requests to refer specific cases to a collection agency; supervise the handling of those cases; approve any compromises of outstanding debts; and discharge fines in appropriate cases.

## **Issues Slow Conflict of Interest Improvement Project**

The Commission received an update from staff on the continuing conflict of interest improvement project. Several issues were presented to obtain Commission guidance. The first addressed developing a "reasonable person" standard which was endorsed by the Commission, but staff was directed to postpone work on this to see how the balance of the regulatory program works this year. There was lengthy discussion and public testimony on the application of the "public generally" exception to an official's economic interest. Of significant public interest was discussion of an exception for rent control issues. Specifically, in the City of San Francisco three or four of the supervisors own rental property and routinely recuse themselves. The result is the political disenfranchisement of rental property owners. The Commission directed staff to hold an additional interested persons' meeting on this highly controversial issue and receive additional public comment.

*Continued on page 8.*

# May Commission Meeting Summaries

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The Commission took action in the following enforcement matters:

**Todd Keegan**, City Councilmember for the City of El Cajon, was fined \$4,000 for participating in and making governmental decisions which had a material financial effect on sources of income to him and for failing to report a source of income on his 1997 and 1998 annual Statements of Economic Interests.

**Sacramento County Deputy Sheriffs' Association PAC and Mark M. Iwasa, Treasurer**, were fined \$3,250 for failing to timely file two late contribution reports of \$2,500 each during the 1996 primary election; failing to timely disclose expenditures totaling \$17,324; and failing to maintain records for expenditures totaling \$40,549.

**California Association of Drinking Driver Treatment Programs and Michael Wood** were fined \$2,500 for failing to timely file two preelection campaign statements in connection with the November 1996 General Election.

**Essam Khashoggi** was fined \$800 for failing to file a major donor statement by July 31, 1998, disclosing contributions of \$12,000 made in the first six months of 1998 and for failing to file a major donor statement by January 31, 1999, disclosing contributions of \$12,000 made in the second six months of 1998.

**Bruce Roberson**, staff member for Assemblyman Carl Washington, was fined \$600 for failing to timely file a leaving office Statement of Economic Interests as a staff member for the State Senate and an assuming office Statement of Economic Interests as a staff member for the State Assembly in 1999.

**Carolyn A. Roddy**, an employee of the Foothill Private Industry Council, was fined \$500 for failing to timely file her 1997 annual Statement of Economic Interests by April 1, 1998.

**Alejandro Padilla**, a former staff member for Assemblyman Tony Cardenas, was fined \$500 for failing to timely file his 1998 annual Statement of Economic Interests by April 1, 1999.

**Christopher Warner**, board member for the San Francisco Conservation and Development Commission, was fined \$200 for failing to timely file his 1998 annual Statement of Economic Interests by April 1, 1999. ☞



## June Commission Meeting Summaries

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### **Commission Unanimously Adopts *Galligan* Opinion**

At its June Commission meeting, the Commission adopted the *Galligan* Opinion. This opinion memorialized the earlier decision of the Commission that if it is reasonably foreseeable that a governmental decision will have a financial effect on an official's economic interest, the official will have a conflict but that under the specific facts presented in the opinion request, it is not reasonably foreseeable that the decision will have a material financial effect on Councilman Galligan's economic interest. (*See May Commission Meeting Summary.*)

### ***Solis* Opinion Request Considered**

The Commission was asked by Senator Hilda Solis if the gift limits apply to a silver lantern awarded to her as a recipient of the Profile in Courage Award. The Profile in Courage Award is given by the John F. Kennedy Library Foundation to an elected official who stood up for their principles, usually in the face of opposition. Senator Solis received the award for her legislative work on environmental justice. Senator Solis sought to counter what she believed to be a disproportionate number of waste sites and polluting factories located in poor neighborhoods, many with large numbers of Latinos or African Americans. Senator Solis' environmental justice legislation, the first of its kind, won passage and was signed into law by Governor Gray Davis in October 1999. An exception to the gift limit exists when public officials win a prize or award in a bona fide

competition that is not related to their status as public officials. This is usually applied to allow public officials to keep winnings from contests not related to their status as California elected officials. The Commission voted to allow Senator Solis to keep the silver lantern and directed staff to prepare an opinion for adoption at its July meeting. (Senator Solis designated the \$25,000 stipend which accompanied the award to a charity before the Commission took action on this opinion request.)

### **Mass Mailing Regulation Slated for Review and Revision**

The Commission was presented with a staff memorandum which outlined provisions of the existing mass mailing regulation, Regulation 18901, which is the subject of public interest. CalPERS submitted a request to exempt it from the prohibition against including photographs of its members in a roster and Senator Ross Johnson requested the Commission to consider prohibiting mass mailings by incumbent candidates close to an election. Other issues concerning the mass mailing provisions and the recent surge of mailings via e-mail suggest that the Commission should reexamine the provisions of Regulation 18901. The Commission voted to put the mass mailing regulation on the 2001 regulation calendar for further public testimony, review and reconsideration.

*Continued on page 10.*

# June Commission Meeting Summaries

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## **Materiality Standards for Decisions Affecting Business Entities Raised**

Regulation 18705.1, the materiality standards for business entities affected by a decision, was presented to the Commission for pre-notice discussion. The Commission was asked to raise the materiality standards for business entities; possibly include a de minimis affect standard when the effect on a business entity is minimal; consider an exception for small investors in large entities; and provide for a definition of an “asset.” The Commission approved the staff’s recommendations for increasing the materiality standards for business entities; declined to include a de minimis standard; agreed to retain the exception for investments in large entities, which will be increased to \$25,000; and asked that the proposed definition of an “asset” be brought back at a future meeting.

Additionally, the Commission was presented with a staff memorandum containing pre-notice discussion attempting to clarify whether “Doing Business in the Jurisdiction” for conflicts of interest and disclosure purposes included entities which market their products on the internet. Staff was directed to monitor two legislative bills regarding sales tax assessed on internet marketing and to bring this issue back at the August meeting for further pre-notice discussion.

## **New Enforcement Policy for Failing to File Late Contribution Reports**

The Commission was presented with a plan to expedite the prosecuting of violations of the late contribution reporting requirements which occurred during the March state primary election. The Commission approved a fine schedule based on the percentage of unreported

contributions. A fine of up to 15% of the amount of unreported contributions during the state primary election could be assessed and an amount of up to 25% of the amount of unreported contributions during the state general election could be assessed for repeat violations.

The Commission will consider at a later date an enforcement policy for violations of the late contribution reporting rules at the local level.

## **Major Donor Filing Notification Discussed**

The Commission adopted a new policy as recommended by the Enforcement Decision that changes major donor identification, outreach and support, assistance and follow-up, and enforcement. Working with the Secretary of State’s office, staff will identify individuals qualifying as statewide major donors through the first half of the calendar year and those persons would be contacted prior to July 31, alerting them of their filing obligations. Additionally, the Commission adopted the 15%/25% percent fine on major donors who failed to file late contribution reports during the March 7, 2000, state primary election.

The Commission took action in the following enforcement matters:

**Unlimited Construction and Paul Litscher** were fined \$34,200 for making contributions totaling \$1,881 in other than their own legal name. Unlimited Construction is a company owned by Paul Litscher that primarily

*Continued on page 14.*

## **Commission Adopts *Solis* Opinion**

The Commission adopted the *Solis* Opinion which memorializes its earlier decision that Senator Hilda Solis may retain the silver lantern awarded to her by the John F. Kennedy Library Foundation's Profile in Courage award. (*See June Commission Meeting Summary.*)

## **Commission Approves Identification Numbers on Electronically Filed Lobbying Reports**

The Commission directed staff to notice for adoption a regulation that will require electronic filers of lobbying reports to include on their quarterly reports the Secretary of State's identification number for any lobbying entity that received payments from or made payments to the filer and is required by the Act to be listed on the filer's reports.

## **"Public Generally" Regulations Approved for Noticing**

Staff proposed to restructure the "public generally" regulations by identifying the particular segment of the public which should be compared against the public official's economic interest to determine if the public generally exception applies. The "public generally" exception permits an otherwise disqualified official from participating in a decision because the decision would affect a "significant segment" of the public in the same manner as it affects the official's interest. Additionally, the restructuring will remind public officials that the significant segment of the population must be affected in substantially the same manner as the effect on the official's interest. The proposed regulation also provides for a public generally exception for nonprofit entities and government agencies that are sources of income to a public official, and

provides a new standard for decisions which affect an industry, trade, or profession.

## **Commission Considers Materiality Standards for Real Property Interests**

The Commission primarily approved a revised materiality standard for decisions which have an indirect affect on an official's property from a three zone standard to a two zone standard. If the official's property is within 500 feet of the property which is the subject of the decision, the decision would be considered to have a material financial effect on the official's property. If outside 500 feet, the decision would be presumed not have a material financial effect on the official's property if 10 percent of the property owners are also affected similarly.

Formal adoption of the conflict of interest regulations is scheduled for early next year.

The Commission took action in the following enforcement matters:

**Committee for Local Awareness and Armen Tashjian** were fined \$5,000 for failing to file their second pre-election campaign statement in connection with the November 1998 general election and for failing to file two late independent expenditure reports. The Committee for Local Awareness was a committee formed to oppose Hawthorne City Council candidates Guy Hocker, Pablo Catano, Larry Guidi, Ginny Lambert and Oliver Kunitake in the November 2, 1998, general election. The committee should have filed a second pre-election campaign statement on October 21, 1998, disclosing contributions received and expenditure made, but failed to do so until January 31, 2000. Additionally, the committee expended approximately \$6,918 for two separate mailings sent during the final days

*Continued on page 14.*

# Legislative Update

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## Legislative Alternative to Prop. 208 Goes to Voters

In an 11<sup>th</sup>-hour scurry to make the ballot, the Legislature passed **SB 1223** (Burton) a campaign reform measure setting per-contributor limits of \$3,000 for legislative races, \$5,000 for statewide races save the governor's and \$20,000 for candidates for governor, in addition to other reforms. While political parties would have no limit on the amount of contributions they could make to candidates, they could collect those moneys only in increments of \$25,000 or less per contributor. The initiative does not impose limits on local jurisdictions.

## Governor Signs Repeal of Petition Circulator Disclosure

**SB 917** (Polanco) was amended in the Assembly to repeal Section 84211(r), a petition circulator requirement similar to one found unconstitutional by the U.S. Supreme Court in *Buckley v. American Constitutional Law Foundation*, 119 S.Ct. 636 (1999). SB 917 was signed by the Governor on July 21<sup>st</sup>. It is effective January 1, 2001. (Chapter 160, Statutes 2000.)

## Status of Major PRA Amendments

(The Legislature may amend the Act to further its purposes with a 2/3 vote of each house. The following is a summary of recently active PRA-related bills)

**AB 746** (Papan) - Amends the definition of "foreign principal" in Section 85320 to allow U.S. citizens domiciled outside of the United States to make contributions and expenditures to any ballot initiative, recall or referendum. (Recalled to Assembly Elections for hearing on Senate amendments.)

**AB 1838** (Leonard) - Would have extended the "industry, trade or profession" method of establishing the "public generally" exception (currently available only to members of the Legislature) to any public official. After the Commission adopted a position of "oppose unless amended," the sponsor of the bill, the California Association of Realtors, agreed to amend it into a statement of legislative intent directing the Commission to adopt regulations to minimize disqualification and make clarifying changes. (In Senate Elections Committee.)

**AB 2720** (Olberg) - Would have excluded from the definition of "contribution" citizen-created campaign Web sites and other Internet-based campaign-related sites as defined. Amended to create a Commission on Internet Political Practices. (In Senate Appropriations Committee)

**AB 2728** (Olberg) - This bill expresses the intent of the Legislature to enact legislation that would require campaign committees to disclose contributions and expenditures on the Internet within 48 hours of receiving the contribution or making the expenditure. (Died in Assembly.)

**AB 2838** (Hertzberg) - This bill requires earlier reporting of contributions and expenditures than required under the *Fontana* Opinion. Recent amendments deleted a requirement that LAFCOs adopt lobbyist reporting requirements consistent with the Act. (In Senate Local Govt Committee.)

**SB 1458** (Lewis) - Expands the Act's revolving door provisions to inspectors general within the Dept. of Veterans' Affairs and Youth and Adult Correctional Agency. (In Assembly Appropriations Committee.)

*Continued on next page.*

**SB 1829** (Poochigian) - This bill would require advertisements (including Internet-based ads) expressly advocating election or defeat of a state or local candidate or passage or defeat of a state or local ballot measure to prominently disclose the names of each person or committee that supplied funding for the advertisement. (Held in Assembly Elections.)

**SB 1874** (Johnson) Extends the electronic filing requirement to any state officer, state general purpose committee or slate mailer organization which raises or spends \$100,000 or more between January 1, 1999 and June 30, 2000. The first statement required to be filed as a result of this amendment will be the July 31, 2000 semi-annual statement. (On Assembly Floor.)

**SB 2076** (Polanco) - This is the Commission-sponsored forms simplification bill. This bill requires local candidates to file their statement of intent to be a candidate with their local filing officer, rather than the Secretary of State; and requires general purpose committees which make late independent expenditures to file late contribution reports for contributions the committee receives. Removed from the bill were a new quarterly filing schedule and increased asset reporting by committees. (In Assembly Elections.)

## Threshold Increases Effective January 1, 2001

With the recent enactment of AB 974 (Chapter 130, Statutes of 2000), several of the monetary thresholds in the Act will be increased effective January 1, 2001. These will include:

**Section 82033:** Definition of “Interest in real property.” From \$1,000 to \$2,000.

**Section 82034:** Definition of “Investment.” From \$1,000 to \$2,000.

**Section 84200:** Semi-annual statements: monthly income threshold for low-paid officeholders. From \$100 to \$200.

**Section 84202.5:** Supplemental pre-election statement threshold. From \$5,000 to \$10,000.

**Section 84202.7:** Off-year reports threshold for contributions to elected state officers. From \$5,000 to \$10,000.

**Section 84203.5:** Supplemental independent expenditure report threshold. From \$500 to \$1000.

**Section 87103:** Conflict of interest: economic interest threshold. From \$1,000 to \$2,000 for business entity or real property. From \$250 to \$500 for source of income.

**Section 87206:** Conflict of interest reporting: business entity and interest in real property. From \$1,000 to \$2,000. Also creates new reporting ranges of between \$100,001 and \$1,000,000, and over \$1,000,000.

**Section 87207:** Conflict of interest reporting: sources of income. From \$250 to \$500. Also creates new source of income disclosure ranges of between \$10,001 and \$100,000, and over \$100,000.

**Section 89511:** Campaign funds: “substantial personal benefit” threshold. From \$100 to \$200.

**Section 91005:** Enforcement: civil liability for campaign violations. Increases from \$500 to \$1,000 the maximum amount of per-violation civil penalty that may be levied for a violation of Sections 84300, 84304, 86203 or 86204.☞

**June Commission Meeting Summaries —**  
*Continued from page 10.*

does renovations. During 1995-96, Unlimited Construction and Paul Litscher made a total of 19 \$99 contributions to candidates for Ontario City Council by requesting relatives, employees and others to make campaign contributions and then reimbursing those persons for their contributions. This activity is commonly referred to as “campaign money laundering” and is one of the most serious types of violations of the Political Reform Act.

**California Cooperative Creamery State PAC** was fined \$3,000 for failing to file two preelection campaign statements during the 1996 November general election. The Commission imposed a significant penalty in this case as respondent has a history of late filing.

**Lola Mantooth**, member of the Hughes-Elizabeth Lakes Union School District Board, was fined \$600 for failing to timely file her 1997 annual Statement of Economic Interests by April 1, 1998.

**Woodward Kingman**, an Alternate Commissioner for the San Francisco Conservation and Development Commission was fined \$600 for failing to timely file his 1998 annual Statement of Economic Interests by April 1, 1999.

**Glenn T. Gilbert**, a principal consultant for Assemblyman John Longville, was fined \$500 for failing to timely file his 1998 annual Statement of Economic Interests by April 1, 1999. ☞

**July Commission Meeting Summaries —**  
*Continued from page 11.*

before the election, but failed to file late independent expenditure reports in connection with those mailings.

**Stephen B. Gorman, Committee to Elect Stephen Gorman Judge District #3 and John F. Warden, Jr.** were fined \$2,250 for failing to timely file three late contribution reports disclosing the receipt of \$38,000 in loans made by Stephen B. Gorman to his campaign committee during the final days before the March 26, 1996, primary election.

**Donald William (“Bill”) Merriman**, Lake County Supervisor, was fined \$1,500 for participating in a decision in which he had a financial interest. In 1998, Supervisor Merriman sought a zoning change for potential buyers of real estate he co-owned with James Grinols and offered for sale with Gary Olson, broker/owner of Big Valley Properties. The sale was contingent upon a successful ordinance change allowing covered mini-storage in C-2 zoning. Supervisor Merriman, through his broker, got the support of Lake County Supervisor Larsen and wrote a letter to the Board of Supervisors asking that they consider amending the zoning ordinance. At the meeting of the Board of Supervisors in which his request was considered, Supervisor Merriman actively participated in the discussion regarding the zoning change, but abstained from voting. The motion on the zoning change died for lack of a second.

**Zurich Commercial** was fined \$1,000 for failing to timely file a late contribution report disclosing a \$12,100 contribution to the Charles W. Quackenbush Re-election Committee in the final days before the November 1998, general election and for failing to file a major donor campaign statement by January 31, 1999, disclosing that contribution.

**Marla Wolkowitz**, member of the Culver City Unified School District, was fined \$400 for failing to timely file her assuming office Statement of Economic Interests. ☞

### Outreach Program Begins Its Tour

The trainers in our Outreach Program have hit the roads, visiting clerks in more than 10 cities and counties providing them valuable one-on-one service. Their visits have been well received and the response from clerks to the assistance and guidance provided has been positive. During these on-site visits the trainers answer questions and provide support in the campaign and statements of economic interests arenas. Need help setting up your files? Are you overwhelmed by the campaigns forms and need to better understand their purpose? Do you have trouble comparing statements of economic interests to your agency's conflict of interest code? If you need individualized help in any of these areas, you may want to take advantage of this wonderful service. To arrange for an onsite visit, contact our Technical Assistance Division at (916) 322-5660. For a visit from a campaign trainer, ask for Maryann Kvasager. For a visit from a statement of economic interests trainer, ask for Dixie Howard.

### Meet the Members of the Outreach Program



Left to right: (Back row) Cynthia Fisher, Emily Bowden, Tara Stock, Cyndi Glaser; (Sitting) Susan Burgess, Larry Barkhouse and Bonita Kwong.

### Conflict of Interest Code Seminars for Local Government Agencies

In early June, notices were sent to cities and counties advising that it is time for code reviewing bodies to notify all agencies within their respective jurisdictions to review their conflict of interest codes. The code reviewing body for a city government and all agencies within the city is the city council. The code reviewing body for a county government and all agencies solely within the county is the board of supervisors. The notification by code reviewing bodies to their respective agencies should have been mailed by July 1, 2000. That notification advises agencies to conduct a review of the code and to respond by October 1, 2000, that the code either accurately reflects the organizational structure of the agency, or in the alternative, that the code is in need of amendment.

To assist local government agencies with the code amendment process, seminars have been scheduled at the following locations:

#### Walnut

Monday, Sept. 11, 12:00 p.m. - 2:00 p.m.  
21202 LaPuente Road, Council Chambers

#### Sacramento

Wednesday, Sept. 13, 10:00 a.m. - 12:00 p.m.  
FPPC, 428 J Street, 8<sup>th</sup> Floor Hearing Room

#### Santa Ana

Thursday, Sept. 14, 1:00 p.m. - 3:00 p.m.  
510 Memory Lane, Santiago Lawn, Bowling Clubhouse

#### Rohnert Park

Monday, Sept. 18, 11:00 a.m. - 1:00 p.m.  
6750 Commerce Blvd., Council Chambers

#### San Jose

Wednesday, Sept. 20, 1:00 p.m. - 3:00 p.m.  
801 North 1<sup>st</sup> Street, Council Chambers

*More seminars on next page.*

# Clerk's Corner

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## Conflict of Interest Code Seminars — *Continued*

### San Diego ROV

Thursday, Sept. 21, 1:00 p.m. - 3:00 p.m.  
5201 Ruffin Road, Dept. of Planning & Land Use, Ste. B, Conference Hearing Room

### Torrance

Wednesday, Sept. 27, 1:00 p.m. - 3:00 p.m.  
3330 Civic Center Drive, Cultural Arts Center, Music Rm.

### Fresno

Thursday, Sept. 28, 1:00 p.m.- 3:00 p.m.  
2600 Fresno Street, Council Chambers

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To register for a seminar call the FPPC at (916) 322-5660, press 3. Seminars are subject to change.

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## November 2000 Election Workshops for Candidates & Treasurers

The FPPC is holding several two hour workshops tailored to assist candidates and their treasurers involved in the November 2000 election. The workshop is geared to candidate campaigns that will raise over \$1,000. Candidates and treasurers may reserve a seat by calling the FPPC at the number shown above.

### NORTHERN CALIFORNIA

#### Merced County ROV

Wednesday, September 13, 6 p.m. to 8 p.m.  
2222 M Street, Board of Supervisors' Chambers

#### Oroville

Saturday, August 26, 11 a.m. to 1 p.m.  
1735 Montgomery Street, Council Chambers

#### Pinole

Wednesday, September 6, 3 p.m. to 5 p.m.  
2131 Pear Street, Council Chambers

### Sacramento

Saturday, August 12, 10 a.m. to 12 p.m.  
428 J Street, 8th Floor Hearing Room

### San Francisco Ethics Commission

Saturday, August 19, 10 a.m. to 12 p.m.  
One Dr. Carlton Goodlett Place, Room 263

### Santa Clara

Thursday, August 10, 6 p.m. to 8 p.m.  
1500 Warburton Avenue, Council Chambers

### Santa Cruz

Saturday, August 12, 11 a.m. to 1 p.m.  
809 Center Street, Council Chambers

### Santa Rosa

Thursday, August 31, 6 p.m. to 8 p.m.  
100 Santa Rosa Avenue, Council Chambers

### Walnut Creek

Wednesday, August 23, 9 a.m. to 12 p.m.  
1666 North Main Street, Council Chambers

### SOUTHERN CALIFORNIA

#### Arroyo Grande

Wednesday, August 23, 6 p.m. to 8 p.m.  
215 East Branch Street, Council Chambers

#### Atascadero

Thursday, August 24, 7 p.m. to 9 p.m.  
6500 Palma Avenue, Council Chambers

#### Colton

Tuesday, August 29, 6 p.m. to 8 p.m.  
650 North La Cadena Drive, Council Chambers

#### El Cajon

Wednesday, August 16, 6 p.m. to 8 p.m.  
200 East Main Street, Council Chambers

#### Huntington Beach

Thursday, August 24, 6 p.m. to 8 p.m.  
2000 Main Street, Council Chambers  
Lower Level

*More Candidate/Treasurer Workshops on next page.*  
**Candidate/Treasurer Workshops — *Continued***



**L.A. County ROV - Norwalk**

Saturday, August 26, 11 a.m. to 1 p.m.  
12400 Imperial Highway  
7th Floor Conference Room, Norwalk

**Laguna Hills**

Tuesday, August 15, 7 p.m. to 9 p.m.  
25201 Paseo de Alicia, Council Chambers

**Loma Linda**

Thursday, September 7, 6 p.m. to 8 p.m.  
25541 Barton Road, Council Chambers

**Poway**

Wednesday, August 30, 6 p.m. to 8 p.m.  
13325 Civic Center Drive, Council Chambers

**San Bernardino County ROV**

Monday, August 21, 6 p.m. to 9 p.m.  
777 East Rialto Avenue, Main Conference Room

**Santa Monica**

Wednesday, August 30, 6:30 p.m. to 8:30 p.m.  
1685 Main Street, Room 213

**Simi Valley**

Tuesday, August 22, 7 p.m. to 9 p.m.  
2929 Tapo Canyon Road, Council Chambers

### *Question of the Month*

***Are school board candidates and candidates for other offices, such as community services districts, required to file a Form 700 Candidate's Statement of Economic Interests?***

Probably not. The Political Reform Act only requires candidates specifically listed in Gov. Code Section 87200 to complete the candidate's statement. Those persons include the city council, city attorney, mayor, boards of supervisors, etc. Officials elected to other offices, such as a school district or a community services district, do not file a candidate's statement unless it is specified in that agency's conflict of interest code.

### **Candidate's Packets**

Now that the nomination period is open for candidates seeking office in the November election, many of you are preparing packets of information for prospective candidates. Did you remember to include?

#### **Candidates raising/spending *more* than \$1,000:**

- Information Manual A, along with the 2000 Manual Addendum;
- Form 410, Statement of Organization;
- Form 501, Candidate Intention Statement;
- Form 460, Recipient Committee Campaign Statement
- Form 497, Late Contribution Report
- Form 700, Statement of Economic Interests
- Flyer on November 2000 Election Workshops for Candidates/Treasurers

#### **Candidates raising/spending *less* than \$1,000:**

- Information Manual A, along with the 2000 Manual Addendum;
- Form 501, Candidate Intention Statement;
- Form 502, Campaign Bank Account Statement
- Form 470, Officeholder/Candidate Short Form;
- Form 700, Statement of Economic Interests

***Remember!*** The original Form 700, candidate's Statement of Economic Interest for those candidates specifically listed in Gov. Code Section 87200 are forwarded to the Fair Political Practices Commission.

## Advice Summaries

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Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.” (See section 83114 and regulation 18329 for more information.)

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### Opinions

**Joyce M. Hicks**  
**City of Oakland**  
**Dated March 3, 2000**  
**Our File Number: O-99-314**

The “legally required participation” rule does not apply to the Mayor’s participation in decisions related to the proposed redevelopment project because his participation is not required under the city’s charter for the action or decision to be made, and because an alternative source of decision exists.

**William P. Wood**  
**Secretary of State’s Office**  
**Dated March 3, 2000**  
**Our File Number: O-99-315**

For purposes of imposing penalties for late filing of a statement or report under Section 91013 of the Act, the paper version and the electronic version of a statement or report are each considered to be an original. The deadlines set out in Section 91013(a) apply to both the original electronic filing and the original paper filing submitted by a filer.

### Campaign

**Diana Phillips**  
**San Diego County Rock**  
**Producers Association**  
**Dated January 25, 1999**  
**Our File Number: I-98-303**

In order to generate funds for educational activities of the association and for the associations’s political action committee (“PAC”), the association may conduct fundraising events. The Act contains no prohibition on joint fundraising activities of this kind. However, for reporting and record keeping purposes, whenever the association conducts a fundraising event for more than one purpose, the association should advertise the event in a manner that provides notice to each contributor of the specific amount of his or her contribution that will be allocated to each purpose.

**Maureen MacKenzie**  
**Pacific Palisades Republican**  
**Women Federated**  
**Dated April 25, 2000**  
**Our File Number: A-99-311**

A republican women’s club does not qualify as a general purpose committee or an independent expenditure committee because it has neither received contributions of \$1,000 or more nor made independent expenditures totaling \$1,000 or more in a calendar year. Therefore, the club is not required to file a statement of organization or campaign disclosure statements.

**Beth Reno**  
**Steve Peach for Secretary of State**  
**Dated March 31, 2000**  
**Our File Number: A-00-038**

For purposes of determining whether an elected state officer has met the thresholds which trigger electronic filing, the total cumulative reportable amount of *any* contributions received or expenditures made, loans made, or loans received during the specified reporting periods are considered; not just those contributions received or expenditures made in connection with an election.

**Sheryl Z. White**  
**Statecraft, Inc.**  
**Dated April 4, 2000**  
**Our File Number: I-00-039**

Several issues about reporting accrued expenses on Schedule F of Form 460 are discussed in the context of electronic filing.

**Catherine Trimbur**  
**National Women's**  
**Political Caucus**  
**Dated April 14, 2000**  
**Our File Number: A-00-067**

If a candidate sits on a political action committee's ("PAC") executive board, the PAC is a controlled committee unless the candidate does not vote on or make or influence any decision about committee funds. Similarly, if a member of a candidate's staff serves on a PAC's executive board, the PAC is a controlled committee, if the staff member acts on behalf of the candidate. If the staff member, however, acts in a private capacity and not as an agent of the candidate, then the committee is not a controlled committee.

**Chris Mathys**  
**City of Fresno**  
**Dated April 27, 2000**  
**Our File Number: I-00-068**

A city councilmember may form a candidate-controlled ballot measure committee in addition to the committees he maintains for election purposes. The Act imposes no restrictions on raising money for this committee, but the local ordinances may. Leftover funds held by the ballot measure committee may generally be used pursuant to Section 89512.5 and may be transferred to the candidate's other committees as long as the local campaign ordinance is not violated.

**Peter A. Bagatelos**  
**Bagatelos & Fadem**  
**Dated May 9, 2000**  
**Our File Number: I-00-075**

A group of citizens attempting to qualify a ballot measure must file a Statement of Organization (Form 410) once the issue becomes a "measure" under the Act and the group has received contributions totaling \$1,000 or more in a calendar year to support its qualification or passage.

**Nancy L. Warren**  
**San Francisco County Democratic**  
**Central Committee**  
**Dated May 17, 2000**  
**Our File Number: A-00-093**

A candidate wants to terminate her campaign committee with debts outstanding to herself. She asks whether, if she receives funds in the future, she may repay herself. In order for her to terminate, she must not anticipate any future contributions nor have the ability to repay the debt. However, if she subsequently does receive contributions, she must open a campaign bank account in which to place the funds, and make any debt payments out of that account.

# Advice Summaries

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## Conflicts of Interest

**Harry V. Martin**  
**City of Napa**  
**Dated January 7, 1999**  
**Our File Number: A-98-311**

A city councilmember who is a publisher of a local newspaper is not prohibited from participating in decisions to select a person to fill a vacant seat on the city council where one of the candidates is the president of a regular advertiser in the newspaper, because it is not reasonably foreseeable that the decision will have a material financial effect on the newspaper.

**Holly A. Strom**  
**State of California**  
**Board of Pharmacy**  
**Dated April 29, 1999**  
**Our File Number: I-99-036**

A member of the California Board of Pharmacy, who is also a paid consultant to the Rite Aid Corporation, would have a conflict of interest regarding any decision of the board that will have a reasonably foreseeable material financial effect on her consulting business, or the Rite Aid Corporation, that is distinguishable from the effect on the public generally.

**Ronald R. Ball**  
**City of Carlsbad**  
**Dated April 26, 1999**  
**Our File Number: I-99-041**

A planning commissioner may not participate in any planning commission decision that will have a reasonably foreseeable material financial effect on any of her economic interests, including any investment interest, or source of income to her, unless the effect on her interest is not distinguishable from the effect on the public generally.

**Jeffrey R. Epp**  
**City of Escondido**  
**Dated April 9, 1999**  
**Our File Number: A-99-052**

A planning commissioner may participate in a decision to modify or revoke a conditional use permit for the operation of a swap meet on property located adjacent to an apartment complex owned by her employer, unless the decision will have a reasonably foreseeable material financial effect on her economic interests, that is distinguishable from the effect on the public generally.

**Duane L. Cronk**  
**Howell Mountain Elementary**  
**School Board**  
**Dated May 18, 1999**  
**Our File Number: I-99-080**

The conflict of interest provisions of the Act would not prohibit a candidate for election to the school board from participating, as an unpaid volunteer, in the school board's public information program.

**Phillip S. Cronin**  
**Fresno County**  
**Board of Supervisors**  
**Dated June 2, 1999**  
**Our File Number: I-99-091**

A member of the county board of supervisors may participate in decisions by the board concerning redevelopment projects, unless the decision will have a reasonably foreseeable material financial effect on either of her real property interests which are located in one of the project areas, that is distinguishable from the effect on the public generally.

**Dina P. Gartland**  
**City of Huntington Beach**  
**Dated June 15, 1999**  
**Our File Number: I-99-114**

The Act does not prohibit a public works commission member's employer from bidding on public works projects. The commission member is prohibited from voting on, or otherwise participating in, any decision by the public works commission, about a public works project, that will have a material financial effect on her employer that is distinguishable from the effect on the public generally.

**John G. Barisone**  
**City of Santa Cruz**  
**Dated June 1, 1999**  
**Our File Number: A-99-123**

A city councilmember may not participate in city council decisions regarding restoration and/or development of a project which is within 300 feet of his real property interest. He also may not address boards or commissions subsidiary to the city council regarding the project. In his capacity as a private citizen/neighbor, he may address the city council, as well as boards or commissions subsidiary to the city council, during public hearings regarding restoration and/or development of the project, in order to provide information to the councilmembers, but the information that he provides must be limited to how restoration and/or development will affect his personal interests.

**Adam U. Lindgren**  
**City of Fort Bragg**  
**Dated June 21, 1999**  
**Our File Number: I-99-139**

A planning commissioner/real estate agent may not participate in any decision by the planning commission regarding an update to the city's general plan that will have a reasonably foreseeable material financial effect on her economic interests, that is distinguishable from the effect on the public generally.

**Harry V. Martin**  
**City of Napa**  
**Dated June 29, 1999**  
**Our File Number: I-99-144**

A city councilmember who is a publisher for a local newspaper may not participate in a decision by the city council to place a project on the ballot if that decision will have a reasonably foreseeable material financial effect on one or more of his economic interests (i.e., the newspaper or the publishing company that owns the newspaper) that is distinguishable from the effect on the public generally.

**Steven B. Quintanilla**  
**City of Cathedral City**  
**Dated July 21, 1999**  
**Our File Number: I-99-181**

A city councilmember may participate in decisions concerning renovations of a bowling alley and the design of landscape medians in front of the bowling center unless it is reasonably foreseeable that the decisions will have a material financial effect on one of her economic interests. The councilmember's bona fide dating relationship does not give rise to an economic interest in her boyfriend.

**John Barta**  
**Morro Bay Planning Commission**  
**Dated July 21, 1999**  
**Our File Number: A-99-190**

The Act does not prohibit a planning commissioner who owns and operates his own business that designs internet web sites from entering into a contract to provide design and development services to the city. Planning commissioners have no role in deciding which bidder will be awarded a contract with the city regarding the city's web site.

**Monty Gonsalves**  
**Crescent City Harbor**  
**District Commission**  
**Dated September 3, 1999**  
**Our File Number: A-99-227**

A harbor district commission member who is also a commercial fisherman may not participate in decisions regarding the lease of harbor district facilities to two fish processors who were sources of income to the commission member in the previous twelve months.

**Elizabeth L. Martyn**  
**City of West Covina**  
**Dated October 27, 1999**  
**Our File Number: A-99-232**

The city's Mayor Pro Tem is not disqualified from participating in a governmental decision regarding the sale of the city's water system to a private utility company, because even if the decision will have a reasonably foreseeable material financial effect on his personal finances, the "public generally exception" would apply.

## Advice Summaries

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**Philip H. Romney**  
**City of Santa Paula**  
**Dated March 23, 2000**  
**Our File Number: A-99-292**

In certain circumstances, a defense and indemnification are part of the “terms and conditions” of public office or employment. Therefore, two councilmembers may participate in decisions regarding settlement of the case, indemnification for general or special damages and payment of attorneys’ fees for their defense.

**Craig S. Miller**  
**Marin County**  
**Aviation Commission**  
**Dated April 26, 2000**  
**Our File Number: I-00-014**

The Act’s conflict of interest rules do not prohibit a public official from holding any particular employment or running any particular business. However, a conflict of interest may arise in a particular governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on a public official’s economic interests.

**Deborah E.G. Wilder**  
**Alameda Unified School District**  
**Dated March 28, 2000**  
**Our File Number: A-00-018**

This letter analyzes conflict of interest issues for a school district board member who works for a nonprofit corporation with a contract to run the Head Start program, which is operated within the district. Decisions include contracts with the nonprofit corporation, selection of a new superintendent, personnel, and childcare programs.

**Michael D. Milich**  
**City of Modesto**  
**Dated April 13, 2000**  
**Our File Number: A-00-020**

This letter discusses conflicts of interest for two councilmembers and the mayor. All have property, businesses and sources of income within proximity to a proposed performing arts center.

**Charles J. Williams**  
**City of Lafayette**  
**Dated March 30, 2000**  
**Our File Number: A-00-036**

A planning commissioner may have a conflict of interest in a project that is immediately adjacent to property owned by a source of income to him. A conflict will exist if the approval of the project will affect the fair market value of the property by \$10,000 or more.

**Jolie Houston**  
**City of Gilroy**  
**Dated April 10, 2000**  
**Our File Number: A-00-041**

A city councilmember may not participate in general plan decisions because it is reasonably foreseeable that the decisions will have some material financial effect on his property interest.

**Mitchell S. Conner**  
**CityVision**  
**Dated March 30, 2000**  
**Our File Number: A-00-044**

CityVision, a nonprofit corporation, is an advisory body. A board which does not possess decisionmaking authority pursuant to Regulation 18701(a)(1) is solely advisory. Its board members and officers are not public officials subject to the disclosure and disqualification provisions of the Act.

**Bob Whitney**  
**Brooktrails Township**  
**Board of Directors**  
**Dated April 4, 2000**  
**Our File Number: A-00-060**

Where a source of income to a public official owns parcels on three sides of an intersection, the public official may not influence another agency’s decision about funding improvements to the intersection because it is reasonably foreseeable that the funding decision will have at least some financial effect on the immediately adjacent parcels.

**Theodore P. Tartaglia**  
**City of Reedley**  
**Dated April 6, 2000**  
**Our File Number: A-00-062**

A city planning commission member whose home is less than 300 feet from a proposed housing and commercial development proposal may not participate in decisions concerning that development, except to the extent that certain issues before the commission may be taken in such an order as to allow participation where the official may have no conflict.

**Robert E. Bosso**  
**Soquel Creek Water District**  
**Dated April 14, 2000**  
**Our File Number: A-00-064**

Two water district directors have an economic interest in two different investment firms that provide financing to governmental entities for public improvement projects. It is not reasonably foreseeable that the decision to adopt an EIR regarding a project that will be financed by a revenue bond if approved by the voters will have a material financial effect on the investment firms. Neither firm has any known connection to the project at this time, and if a financial effect was reasonably foreseeable, it would not be material under the materiality standard applicable to Fortune 500 companies.

**Jack L. White**  
**City of Anaheim**  
**Dated April 27, 2000**  
**Our File Number: A-00-070**

A city councilmember has no conflict of interest in a city council decision regarding a Tort Claims Act claim filed against the city by a councilmember and a campaign committee as long as the claim is in the name of the committee, the councilmember has no economic interest in the committee, and recovery under the claim will be had (or not) solely by the committee.

**Melinda Acosta**  
**Department of Health Services**  
**Dated April 14, 2000**  
**Our File Number: I-00-076**

The Act does not prohibit public officials from maintaining outside employment. A conflict of interest under the Act can arise only within the context of specific governmental decisions with reasonably foreseeable, material financial effects on one or more of an official's economic interests.

**Kenneth A. Wilson**  
**City of Healdsburg**  
**Dated April 13, 2000**  
**Our File Number: A-00-077**

A planning commission member cannot participate in adoption of a growth management ordinance where he owns a seven-acre parcel that will come under exemptions to the ordinance. Because only two percent of other property owners would be subject to similar exemptions, the "public generally" exception does not apply.

**Paul Sweeney**  
**State Board of Registration for**  
**Geologists and Geophysicists**  
**Dated May 17, 2000**  
**Our File Number: A-00-078**

Board volunteers are required to complete Statements of Economic Interests if they are members of a board or commission with decision making authority and, therefore, are public officials.

**Michael A. Ramos**  
**County of San Bernardino**  
**Dated May 2, 2000**  
**Our File Number: I-00-079**

The Act does not prohibit a spouse from accepting employment as a substitute teacher. A public official may participate in school board decisions pertaining to teacher contracts provided there is no personal financial effect on the official or his immediate family.

## Advice Summaries

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**Michael F. Graham**  
State Health and Human  
Services Data Center  
Dated April 26, 2000  
Our File Number: A-00-080

If a consultant pursues a business venture with IBM, he will be disqualified from working on a project on which IBM intends to bid.

**Jeffrey M. Oderman**  
City of San Clemente  
Dated May 3, 2000  
Our File Number: A-00-082

A city councilmember may participate in decisions regarding redevelopment of a motel property if the project will not affect his residential property value in excess of \$10,000. The letter discusses the circumstances under which the councilmember may rely on an expert's appraisal of the financial affect on his residence and, in the event the official is disqualified, the circumstances under which he may participate in the governmental decision as a member of the general public.

**Henry Empeño, Jr.**  
City of San Bernardino  
Dated May 1, 2000  
Our File Number: A-00-084

A public official may not participate in a governmental decision involving a sidewalk or street improvements to an area within 300 feet of the official's real property.

**G. Mark Graham**  
Town of Danville  
Dated May 2, 2000  
Our File Number: I-00-085

To assess the financial effect of a proposed 200-unit development located between 300 and 2,500 feet from his primary residence, a planning commissioner may wish to obtain an independent appraisal that considers the factors set forth in Regulation 18705.2(b)(4).

**Bob Whitney**  
Brooktrails Township  
Board of Directors  
Dated May 10, 2000  
Our File Number: A-00-088

A quitclaim deed, an item of value to which the public official has a legally enforceable right as a result of a lawsuit settlement, constitutes income under the Act.

**Steven M. Kamp**  
State Board of Equalization  
Dated May 23, 2000  
Our File Number: A-00-106

Where a public official is a member of a class action suit against a corporation, the defendant (the corporation) is not a source of income to the public official if the official does not have a legally enforceable right to a settlement award.

## Conflict of Interest Code

**Stephen N. Cool**  
Avila Beach  
Community Foundation  
Dated May 18, 1999  
Our File Number: A-99-084

The members of the board of trustees of a beach community foundation are members of a public agency who must file statements of economic interests, as prescribed by the agency's conflict of interest code.



### Gift Limits

**Ruth Gilson**  
**City of Bellflower**  
**Dated February 16, 1999**  
**Our File Number: A-99-026**

A city councilmember and her husband received tickets to attend a play from another couple. The city councilmember is only responsible for reporting the cost of her ticket (the other ticket was a gift to her husband) on her statement of economic interests, provided the total value of the gifts she has received from the couple during the period covered by the statement is \$50 or more (including the ticket).

**Sue Summersett**  
**Department of the**  
**Youth Authority**  
**Dated May 4, 2000**  
**Our File Number: A-00-087**

Because her agency's conflict of interest code requires only income from *business entities* be disclosed on statements of economic interests, a designated employee may accept travel and scholarship payments from a non-profit organization. The payments will neither be reportable nor limited, but they could potentially be disqualifying.

**Tyrone I. Vahedi**  
**California State**  
**Employees' Association**  
**Dated May 9, 2000**  
**Our File Number: A-00-091**

Payments received by a state employee to fund his campaign for a position with CSEA, a union, are "gifts" under the Act, and therefore, are subject to the reporting requirements and gift limitations.

### Honoraria

**James Benjamin**  
**City of Half Moon Bay**  
**Dated April 25, 2000**  
**Our File Number: A-00-069**

A planning commissioner, who is a graduate student, may not accept a payment for giving a speech at an academic symposium. Being a graduate student, on its own, is not a bona fide trade or profession. The teaching exception (Regulation 18932.2) is also not applicable.

### Lobbying

**Ed Howard**  
**Foundation for Taxpayer**  
**and Consumer Rights**  
**Dated April 4, 2000**  
**Our File Number: A-00-073**

The requestor is registered as an in-house lobbyist for the 1999/2000 legislative session. He never qualified as a lobbyist and left his former employer to open a private law practice. The former employer has deleted him from its registration and he has filed a Form 607 to withdraw as a lobbyist. Since those forms have been filed, he has received two notices indicating that he is obligated to complete the lobbyist ethics course, but because he did not meet the legal definition of lobbyist and has withdrawn his registration, he has no obligation to take the course.

# Advice Summaries

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## Revolving Door

**Mary E. Hamilton**  
**California Department of Finance**  
**Dated July 8, 1999**  
**Our File Number: I-99-159**

The one-year post-employment restrictions of the Act do not prohibit a former employee of a state agency from speaking with employees of that agency, about the agency contracting with her consulting firm, unless she held a position with the agency that should have been listed as a designated employee position in the agency's conflict of interest code. The one-year post-employment restrictions of the Act do not prohibit the former employee from performing work pursuant to a contract between her consulting firm and the state agency that previously employed her.

**Steven S. Lucas**  
**State Board of Equalization**  
**Dated April 14, 2000**  
**Our File Number: A-00-034**

Numerous questions regarding post-governmental employment restrictions to a former deputy director are discussed. Under Regulation 18741.1(a)(4), he was deemed to have participated in the proceedings in question and therefore the permanent ban applies.

**Frederick Morawcznski**  
**State of California**  
**Board of Corrections**  
**Dated April 17, 2000**  
**Our File Number: A-00-065**

A state administrative official, in considering future employment as executive director of a private professional association, may face restrictions in that employment with respect to contacts with his current employer and other agencies and may not, in his current position, influence any decisions which may relate to his prospective employer.

**Patricia Williams**  
**State of California**  
**Employment Training Panel**  
**Dated April 26, 2000**  
**Our File Number: I-00-072**

If an Employment Training Panel ("ETP") member leaves her position, the one-year ban will prohibit her from making any formal or informal appearances before ETP or its departments to influence any administrative or legislative action of the agency, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a contract. Under the Act's permanent ban, she will also be barred from working on any judicial, quasi-judicial, or other proceeding, that she participated in as a board member at ETP.

**David H. Johnson**  
**City of Santa Barbara**  
**Dated May 9, 2000**  
**Our File Number: A-00-090**

The Act's "revolving door" provisions apply only to "state administrative officials" or to designated employees of "state administrative agencies." The revolving door provisions of the Act do not apply to employees of a local government agency. The requestor was advised to contact the city to ascertain whether the city has a local ordinance regarding revolving door provisions for former employees.

### Statements of Economic Interest

**Judith L. Brown**  
**California Board of Education**  
**Dated May 16, 2000**  
**Our File Number: A-00-112**

The members of the Curriculum Development and Supplemental Materials Commission (the “commission”) are designated in the conflict of interest code of the State Board of Education (the “board”). The members of the commission are therefore considered designated employees of the board and are required to file statements of economic interests. Among other things, they are required to report on their statements of economic interests sources of income and gifts which are publishers, manufacturers, or vendors of instructional materials or services offered to education institutions in California. As designated employees, they are subject to a \$300/year gift limit from sources reportable per the board’s conflict of interest code. In addition, they are also subject to the \$10/month gift limit from registered lobbyists and lobbying firms which are registered to lobby the board.

## Political Reform Act Available on CD Rom

A CD will be available soon containing the Political Reform Act of 1974 (updated to January 1, 2000), including brief histories of amended sections and references to applicable regulations, opinions and enforcement decisions. The CD is available for \$10 per copy (no charge for government agencies). Please send your check made payable to the "State of California" and the order form below to:

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